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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,918

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Gavriel J. Iddan

P-4877-US

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49443 7590 06/09/2009  
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EXAMINER

FOREMAN, JONATHAN M

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,918	<b>Applicant(s)</b> IDDAN ET AL.	
	<b>Examiner</b> JONATHAN ML FOREMAN	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12,27,37 and 40-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12,27,37 and 40-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/23/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12, 37 and 40 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,604,531 to Iddan et al. in view of U.S. Patent No. 3,939,823 to Kaye et al. and U.S. Patent No. 6,419,626 to Yoon.

In regard to claims 12, 37 and 40 – 47, Iddan et al. disclose a swallowable imaging device that has no physical connection to outside of a patient's body when swallowed for collecting in vivo images and in vivo pressure data including a housing having an optical dome (22), a shell; an imaging system (24) enclosed in the housing behind the optical dome; a pressure sensor (Col. 3, lines 38 - 40); and a transmitter capable of transmitting in vivo pressure data (Col. 3, line 15). The optical dome is a barrier to body fluids. Iddan et al. includes an illumination unit (20). The illumination unit is considered to produce illumination in proportion to a signal from the pressure gauge in that

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the illumination unit produces illumination and the pressure gauge produces a signal. Iddan et al. disclose a pressure sensor but fail to disclose the sensor including a pliant sleeve surrounding the shell, the pliant sleeve defining a space between the shell and the sleeve, the space being filled with a dielectric liquid; and a pressure gauge immersed in the dielectric liquid. Kaye et al. disclose a device for collecting in vivo pressure data including a pliant sleeve surrounding a shell, the pliant sleeve defining a space between the shell and the sleeve, the space being filled with a dielectric liquid; and a pressure gauge immersed in the dielectric liquid (Col. 2, lines 47 – 65). The pressure gauge is attached to the shell and to the sleeve via the shell. The claims would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Because both Iddan et al. and Kay et al. teach in vivo pressure measuring devices, it would have been obvious to one skilled in the art at the time of the invention to substitute one pressure measuring sensor for the other to achieve the predictable results of obtaining better pressure measurements within internal body cavities (Col. 1, lines 46 – 48). Iddan et al. disclose a display for displaying in-vivo images provided by the imaging system (Col. 3, lines 17 – 22). However, Iddan et al. fail to disclose displaying the pressure data simultaneously with correlating in-vivo images, the pressure data displayed being measured at a correlating site of the image being displayed. However, Yoon discloses a system for collecting and displaying in vivo data including a display which displays pressure data (Col. 11, lines 41 – 46) simultaneously with correlating in-vivo images, the pressure data displayed being measured at a correlating site of the image being displayed (Col. 11, lines 15 – 27). The claims would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention to apply the technique of displaying pressure data simultaneously with in-vivo images as taught by

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Yoon to improve the system of Iddan et al. for the predictable result of allowing a user to view all of the data produced by the device.

In regard to claim 42, Iddan et al. disclose the imaging system includes and imager, an illumination element (20) to illuminate and in vivo area and an optical element to focus reflected light onto the imager (Col. 3, lines 48 - 56). Iddan et al. fail to disclose more than one illumination element. However, duplicating the components of a prior art device is a design consideration within the skill of the art. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the illumination element as disclosed by Iddan et al. in order to provide greater illumination if so desired.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,604,531 to Iddan et al. in view of U.S. Patent No. 3,939,823 to Kaye et al. and U.S. Patent No. 6,419,626 to Yoon as applied to claim 37, and further in view of U.S. Patent Application Publication No. 2003/0191430 to D'Andrea et al.

In regard to claim 27, Iddan et al. in view of Kaye et al. and Yoon disclose receiving the pressure data, and analyzing the pressure data. However, Iddan et al. in view of Kaye et al. and Yoon fail to disclose determining the location of the in-vivo device based on the pressure data. However, D'Andrea et al. teaches an in-vivo measuring device wherein the pressure data is analyzed to determine the location of the device [0050][0051]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to analyze the pressure data as disclosed by Iddan et al. in view of Kaye et al. and Yoon to determine the location of the device as taught by D'Andrea et al. in order to better position the device at a desired site during use of the device.

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***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN ML FOREMAN whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./  
Examiner, Art Unit 3736

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736